



General Assembly

February Session, 2006

***Raised Bill No. 547***

LCO No. 2582

\*02582\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING THE DUTIES AND RESPONSIBILITIES OF  
DIRECTORS AND OFFICERS OF BUSINESS CORPORATIONS AND  
NONSTOCK CORPORATIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 33-602 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 As used in sections 33-600 to 33-998, inclusive, and sections 2 and 15  
4 of this act:

5 (1) "Address" means location as described by the full street number,  
6 if any, street, city or town, state or country and not a mailing address  
7 such as a post office box.

8 (2) "Authorized shares" means the shares of all classes a domestic or  
9 foreign corporation is authorized to issue.

10 (3) "Certificate of incorporation" means the original certificate of  
11 incorporation or restated certificate of incorporation, and all  
12 amendments thereto, and all certificates of merger or consolidation. In  
13 the case of a specially chartered corporation, "certificate of

14 incorporation" means the special charter of the corporation, including  
15 any portions of the charters of its predecessor companies which have  
16 continuing effect, and any amendments to the charter made by special  
17 act or pursuant to general law. In the case of a corporation formed  
18 before January 1, 1961, or of a specially chartered corporation,  
19 "certificate of incorporation" includes those portions of any other  
20 corporate instruments or resolutions of current application in which  
21 are set out provisions of the sort which either (A) are required by  
22 sections 33-600 to 33-998, inclusive, to be embodied in the certificate of  
23 incorporation, or (B) are expressly permitted by sections 33-600 to 33-  
24 998, inclusive, to be operative only if included in the certificate of  
25 incorporation. It also includes what were, prior to January 1, 1961,  
26 designated at law as agreements of association, articles of  
27 incorporation, charters and other such terms.

28 (4) "Conspicuous" means so written that a reasonable person against  
29 whom the writing is to operate should have noticed it. For example,  
30 printing in italics or boldface or contrasting color, or typing in capitals  
31 or underlined, is conspicuous.

32 (5) "Corporation" or "domestic corporation" means a corporation  
33 with capital stock, which is not a foreign corporation, incorporated  
34 under the laws of this state, whether general law or special act and  
35 whether before or after January 1, 1997.

36 (6) "Deliver" or "delivery" means any method of delivery used in  
37 conventional commercial practice including delivery by hand, mail,  
38 commercial delivery and electronic transmission.

39 (7) "Distribution" means a direct or indirect transfer of money or  
40 other property, except its own shares, or incurrence of indebtedness by  
41 a corporation to or for the benefit of its shareholders in respect of any  
42 of its shares. A distribution may be in the form of a declaration or  
43 payment of a dividend; a purchase, redemption or other acquisition of  
44 shares; a distribution of indebtedness; or otherwise.

45 (8) "Document" includes anything delivered to the office of the  
46 Secretary of the State for filing under sections 33-600 to 33-998,  
47 inclusive.

48 (9) "Effective date of notice" is defined in section 33-603.

49 (10) "Electronic transmission" or "electronically transmitted" means  
50 any process of communication not directly involving the physical  
51 transfer of paper that is suitable for the retention, retrieval and  
52 reproduction of information by the recipient.

53 (11) "Employee" includes an officer but not a director. A director  
54 may accept duties that make him also an employee.

55 (12) "Entity" includes a corporation and foreign corporation;  
56 nonprofit corporation; profit and nonprofit unincorporated  
57 association; business trust, estate, partnership, limited liability  
58 company, trust and two or more persons having a joint or common  
59 economic interest; and state, United States or foreign government.

60 (13) "Facts objectively ascertainable" outside of a plan or filed  
61 document is defined in subsection (l) of section 33-608.

62 (14) "Foreign corporation" means a corporation incorporated under  
63 a law other than the law of this state.

64 (15) "Governmental subdivision" includes authority, county, district  
65 and municipality.

66 (16) "Includes" denotes a partial definition.

67 (17) "Individual" includes the estate of an incompetent or deceased  
68 individual.

69 (18) "Means" denotes an exhaustive definition.

70 (19) "Notice" is defined in section 33-603.

71 (20) "Person" includes individual and entity.

72 (21) "Principal office" of a domestic corporation means the address  
73 of the principal office of such corporation in this state, if any, as the  
74 same appears in the last annual report, if any, filed by such corporation  
75 with the Secretary of the State. If no principal office so appears, the  
76 corporation's "principal office" means the address in this state of the  
77 corporation's registered agent for service as last shown on the records  
78 of the Secretary of the State. In the case of a domestic corporation  
79 which has not filed such an annual report or appointment of registered  
80 agent for service, the "principal office" means the address of the  
81 principal place of business of such corporation in this state, if any, and  
82 if such corporation has no place of business in this state, its "principal  
83 office" shall be the office of the Secretary of the State.

84 (22) "Proceeding" includes civil suit and criminal, administrative  
85 and investigatory action.

86 (23) "Public corporation" means a corporation that has shares listed  
87 on a national securities exchange or regularly traded in a market  
88 maintained by one or more members of a national or affiliated  
89 securities association.

90 (24) "Qualified director" is defined in section 2 of this act.

91 [(23)] (25) "Record date" means the date established under sections  
92 33-665 to 33-687, inclusive, or sections 33-695 to 33-727, inclusive, on  
93 which a corporation determines the identity of its shareholders and  
94 their shareholdings for purposes of sections 33-600 to 33-998, inclusive.  
95 The determinations shall be made as of the close of business on the  
96 record date unless another time for doing so is specified when the  
97 record date is fixed.

98 [(24)] (26) "Secretary" means the corporate officer to whom under  
99 the bylaws or by the board of directors is delegated responsibility  
100 under subsection (c) of section 33-763 for custody of the minutes of the

101 meetings of the board of directors and of the shareholders and for  
102 authenticating records of the corporation.

103 [(25)] (27) "Secretary of the State" means the Secretary of the State of  
104 Connecticut.

105 [(26)] (28) "Shares" means the units into which the proprietary  
106 interests in a corporation are divided.

107 [(27)] (29) "Shareholder" means the person in whose name shares are  
108 registered in the records of a corporation or the beneficial owner of  
109 shares to the extent of the rights granted by a nominee certificate on  
110 file with a corporation.

111 [(28)] (30) "Sign" or "signature" includes any manual, facsimile,  
112 conformed or electronic signature.

113 [(29)] (31) "State", when referring to a part of the United States,  
114 includes a state and commonwealth, and their agencies and  
115 governmental subdivisions, and a territory and insular possession, and  
116 their agencies and governmental subdivisions, of the United States.

117 [(30)] (32) "Subscriber" means a person who subscribes for shares in  
118 a corporation, whether before or after incorporation.

119 [(31)] (33) "United States" includes any district, authority, bureau,  
120 commission, department and other agency of the United States.

121 [(32)] (34) "Voting group" means all shares of one or more classes or  
122 series that under the certificate of incorporation or sections 33-600 to  
123 33-998, inclusive, are entitled to vote and be counted together  
124 collectively on a matter at a meeting of shareholders. All shares  
125 entitled by the certificate of incorporation or said sections to vote  
126 generally on the matter are for that purpose a single voting group.

127 [(33)] (35) "Voting power" means the current power to vote in the  
128 election of directors.

129       Sec. 2. (NEW) (*Effective October 1, 2006*) (a) For purposes of sections  
130       33-600 to 33-998, inclusive, of the general statutes and section 15 of this  
131       act, a qualified director is a director who, at the time action is to be  
132       taken under:

133       (1) Section 33-724 of the general statutes, as amended by this act,  
134       does not have (A) a material interest in the outcome of the proceeding,  
135       or (B) a material relationship with a person who has such an interest;

136       (2) Section 33-773 or 33-775 of the general statutes, as amended by  
137       this act, (A) is not a party to the proceeding, (B) is not a director who  
138       sought approval for a director's conflicting interest transaction under  
139       section 33-783 of the general statutes, as amended by this act, or a  
140       disclaimer of the corporation's interest in a business opportunity under  
141       section 15 of this act, which approval or disclaimer is challenged in the  
142       proceeding, and (C) does not have a material relationship with a  
143       director described in either subparagraph (A) or (B) of this  
144       subdivision;

145       (3) Section 33-783 of the general statutes, as amended by this act, is  
146       not a director (A) as to whom the transaction is a director's conflicting  
147       interest transaction, or (B) who has a material relationship with  
148       another director as to whom the transaction is a director's conflicting  
149       interest transaction; or

150       (4) Section 15 of this act, would be a qualified director under  
151       subdivision (3) of this subsection if the business opportunity were a  
152       director's conflicting interest transaction.

153       (b) For purposes of this section:

154       (1) "Material relationship" means a familial, financial, professional,  
155       employment or other relationship that would reasonably be expected  
156       to impair the objectivity of the director's judgment when participating  
157       in the action to be taken; and

158       (2) "Material interest" means an actual or potential benefit or

159 detriment, other than one which would devolve on the corporation or  
160 the shareholders generally, that would reasonably be expected to  
161 impair the objectivity of the director's judgment when participating in  
162 the action to be taken.

163 (c) The presence of one or more of the following circumstances shall  
164 not by itself prevent a director from being a qualified director:

165 (1) Nomination or election of the director to the current board by  
166 any director who is not a qualified director with respect to the matter,  
167 or by any person that has a material relationship with that director,  
168 acting alone or participating with others;

169 (2) Service as a director of another corporation of which a director  
170 who is not a qualified director with respect to the matter, or any  
171 individual who has a material relationship with that director, is also a  
172 director; or

173 (3) With respect to action to be taken under section 33-724 of the  
174 general statutes, as amended by this act, status as a named defendant,  
175 as a director against whom action is demanded or as a director who  
176 approved the conduct being challenged.

177 Sec. 3. Subsection (d) of section 33-717 of the general statutes is  
178 repealed and the following is substituted in lieu thereof (*Effective*  
179 *October 1, 2006*):

180 (d) An agreement authorized by this section shall cease to be  
181 effective when [shares of the corporation are listed on a national  
182 securities exchange or regularly traded in a market maintained by one  
183 or more members of a national or affiliated securities association] the  
184 corporation becomes a public corporation. If the agreement ceases to  
185 be effective for any reason, the board of directors may, if the  
186 agreement is contained or referred to in the corporation's certificate of  
187 incorporation or bylaws, adopt an amendment to the certificate of  
188 incorporation or bylaws, without shareholder action, to delete the

189 agreement and any references to it.

190 Sec. 4. Section 33-724 of the general statutes is repealed and the  
191 following is substituted in lieu thereof (*Effective October 1, 2006*):

192 (a) A derivative proceeding shall be dismissed by the court on  
193 motion by the corporation if one of the groups specified in subsection  
194 (b) or [(f)] (e) of this section has determined in good faith, after  
195 conducting a reasonable inquiry upon which its conclusions are based,  
196 that the maintenance of the derivative proceeding is not in the best  
197 interests of the corporation.

198 (b) Unless a panel is appointed pursuant to subsection [(f)] (e) of this  
199 section, the determination in subsection (a) of this section shall be  
200 made by:

201 (1) A majority vote of [independent] qualified directors present at a  
202 meeting of the board of directors if the [independent] qualified  
203 directors constitute a quorum; or

204 (2) [a] A majority vote of a committee consisting of two or more  
205 [independent] qualified directors appointed by [a] majority vote of  
206 [independent] qualified directors present at a meeting of the board of  
207 directors, regardless of whether [or not] such [independent] qualified  
208 directors [constituted] constitute a quorum.

209 [(c) None of the following shall by itself cause a director to be  
210 considered not independent for purposes of this section: (1) The  
211 nomination or election of the director by persons who are defendants  
212 in the derivative proceeding or against whom action is demanded; (2)  
213 the naming of the director as a defendant in the derivative proceeding  
214 or as a person against whom action is demanded; or (3) the approval  
215 by the director of the act being challenged in the derivative proceeding  
216 or demand if the act resulted in no personal benefit to the director.]

217 [(d)] (c) If a derivative proceeding is commenced after a  
218 determination has been made rejecting a demand by a shareholder, the



219 complaint shall allege with particularity facts establishing either (1)  
 220 that a majority of the board of directors did not consist of  
 221 [independent] qualified directors at the time the determination was  
 222 made, or (2) that the requirements of subsection (a) of this section have  
 223 not been met.

224 [(e)] (d) If a majority of the board of directors [does not consist of  
 225 independent directors at the time the determination is made, the  
 226 corporation shall have the burden of proving that the requirements of  
 227 subsection (a) of this section have been met. If a majority of the board  
 228 of directors consists of independent directors at the time the  
 229 determination is] consisted of qualified directors at the time the  
 230 determination was made, the plaintiff shall have the burden of proving  
 231 that the requirements of subsection (a) of this section have not been  
 232 met. If a majority of the board of directors did not consist of qualified  
 233 directors at the time the determination was made, the corporation shall  
 234 have the burden of proving that the requirements of subsection (a) of  
 235 this section have been met.

236 [(f) The] (e) Upon motion by the corporation, the court may appoint  
 237 a panel of one or more [independent persons upon motion by the  
 238 corporation] individuals to make a determination whether the  
 239 maintenance of the derivative proceeding is in the best interests of the  
 240 corporation. In such case, the plaintiff shall have the burden of proving  
 241 that the requirements of subsection (a) of this section have not been  
 242 met.

243 Sec. 5. Section 33-764 of the general statutes is repealed and the  
 244 following is substituted in lieu thereof (*Effective October 1, 2006*):

245 Each officer has the authority and shall perform the [duties]  
 246 functions set forth in the bylaws or, to the extent consistent with the  
 247 bylaws, the [duties] functions prescribed by the board of directors or  
 248 by direction of an officer authorized by the board of directors to  
 249 prescribe the [duties] functions of other officers.

250       Sec. 6. Section 33-770 of the general statutes is repealed and the  
251       following is substituted in lieu thereof (*Effective October 1, 2006*):

252       As used in sections 33-770 to 33-779, inclusive:

253       (1) "Corporation" includes any domestic or foreign predecessor  
254       entity of a corporation in a merger.

255       (2) "Director" or "officer" means an individual who is or was a  
256       director or officer, respectively, of a corporation or who, while a  
257       director or officer of the corporation, is or was serving at the  
258       corporation's request as a director, officer, partner, trustee, employee  
259       or agent of another domestic or foreign corporation, partnership, joint  
260       venture, trust, employee benefit plan or other entity. A director or  
261       officer is considered to be serving an employee benefit plan at the  
262       corporation's request if [his] the individual's duties to the corporation  
263       also impose duties on, or otherwise involve services by, [him] the  
264       individual to the plan or to participants in or beneficiaries of the plan.  
265       "Director" or "officer" includes, unless the context requires otherwise,  
266       the estate or personal representative of a director or officer.

267       [(3) "Disinterested director" means a director who at the time of a  
268       vote referred to in subsection (c) of section 33-773 or a vote or selection  
269       referred to in subsection (b) or (c) of section 33-775, is not (A) a party to  
270       the proceeding or (B) an individual having a familial, financial,  
271       professional or employment relationship with the director whose  
272       indemnification or advance for expenses is the subject of the decision  
273       being made, which relationship would, in the circumstances,  
274       reasonably be expected to exert an influence on the director's judgment  
275       when voting on the decision being made.]

276       [(4)] (3) "Expenses" include counsel fees.

277       [(5)] (4) "Liability" means the obligation to pay a judgment,  
278       settlement, penalty, fine, including an excise tax assessed with respect  
279       to an employee benefit plan, or reasonable expenses incurred with

280 respect to a proceeding.

281 [(6)] (5) "Official capacity" means: (A) When used with respect to a  
 282 director, the office of director in a corporation; and (B) when used with  
 283 respect to an [individual other than a director] officer, as contemplated  
 284 in section 33-776, the office in a corporation held by the officer. [or the  
 285 employment or agency relationship undertaken by the employee or  
 286 agent on behalf of the corporation.] "Official capacity" does not include  
 287 service for any other domestic or foreign corporation or any  
 288 partnership, joint venture, trust, employee benefit plan or other entity.

289 [(7)] (6) "Party" means an individual who was, is, or is threatened to  
 290 be made, a defendant or respondent in a proceeding.

291 [(8)] (7) "Proceeding" means any threatened, pending or completed  
 292 action, suit or proceeding, whether civil, criminal, administrative,  
 293 arbitratative or investigative and whether formal or informal.

294 Sec. 7. Section 33-773 of the general statutes is repealed and the  
 295 following is substituted in lieu thereof (*Effective October 1, 2006*):

296 (a) A corporation may, before final disposition of a proceeding,  
 297 advance funds to pay for or reimburse the reasonable expenses  
 298 incurred [by a director] in connection with the proceeding by an  
 299 individual who is a party to [a] the proceeding because [he is a director  
 300 if he] that individual is a member of the board of directors if the  
 301 director delivers to the corporation:

302 (1) A written affirmation of [his] the director's good faith belief that  
 303 [he has met] the relevant standard of conduct described in section 33-  
 304 771 [,] has been met by the director or that the proceeding involves  
 305 conduct for which liability has been limited under a provision of the  
 306 certificate of incorporation as authorized by subdivision (4) of  
 307 subsection (b) of section 33-636, as amended by this act; and

308 (2) [his] A written undertaking to repay any funds advanced if [he]  
 309 the director is not entitled to mandatory indemnification under section

310 33-772 and it is ultimately determined under section 33-774 or 33-775,  
311 as amended by this act, that [he] the director has not met the relevant  
312 standard of conduct described in section 33-771.

313 (b) The undertaking required by subdivision (2) of subsection (a) of  
314 this section must be an unlimited general obligation of the director but  
315 need not be secured and may be accepted without reference to the  
316 financial ability of the director to make repayment.

317 (c) Authorizations under this section shall be made:

318 (1) By the board of directors: (A) If there are two or more  
319 [disinterested] qualified directors, by a majority vote of all the  
320 [disinterested] qualified directors, a majority of whom shall for such  
321 purpose constitute a quorum, or by a majority of the members of a  
322 committee of two or more [disinterested] qualified directors appointed  
323 by such a vote; or (B) if there are fewer than two [disinterested]  
324 qualified directors, by the vote necessary for action by the board in  
325 accordance with subsection (c) of section 33-752, in which  
326 authorization directors who [do not qualify as disinterested] are not  
327 qualified directors may participate; or

328 (2) [by] By the shareholders, [provided] but shares owned by or  
329 voted under the control of a director who at the time [does not qualify  
330 as a disinterested] is not a qualified director may not be voted on the  
331 authorization.

332 Sec. 8. Section 33-775 of the general statutes is repealed and the  
333 following is substituted in lieu thereof (*Effective October 1, 2006*):

334 (a) A corporation may not indemnify a director under section 33-771  
335 unless authorized for a specific proceeding after a determination has  
336 been made that indemnification [of the director] is permissible because  
337 [he] the director has met the relevant standard of conduct set forth in  
338 said section.

339 (b) The determination shall be made:

340 (1) If there are two or more [disinterested] qualified directors, by the  
 341 board of directors by a majority vote of all the [disinterested] qualified  
 342 directors, a majority of whom shall for such purpose constitute a  
 343 quorum, or by a majority of the members of a committee of two or  
 344 more [disinterested] qualified directors appointed by such a vote;

345 (2) By special legal counsel (A) selected in the manner prescribed in  
 346 subdivision (1) of this subsection, or (B) if there are fewer than two  
 347 [disinterested] qualified directors, selected by the board of directors, in  
 348 which selection directors who [do not qualify as disinterested] are not  
 349 qualified directors may participate; or

350 (3) By the shareholders, but shares owned by or voted under the  
 351 control of a director who at the time [does not qualify as a  
 352 disinterested] is not a qualified director may not be voted on the  
 353 determination.

354 (c) Authorization of indemnification shall be made in the same  
 355 manner as the determination that indemnification is permissible,  
 356 except that if there are fewer than two [disinterested] qualified  
 357 directors, or if the determination is made by special legal counsel,  
 358 authorization of indemnification shall be made by those entitled to  
 359 select special legal counsel under subparagraph (B) of subdivision (2)  
 360 of subsection (b) of this section. [to select special legal counsel.]

361 Sec. 9. Section 33-781 of the general statutes is repealed and the  
 362 following is substituted in lieu thereof (*Effective October 1, 2006*):

363 As used in sections 33-781 to 33-784, inclusive, as amended by this  
 364 act:

365 [(1) "Conflicting interest" with respect to a corporation means the  
 366 interest a director of the corporation has respecting a transaction  
 367 effected or proposed to be effected by the corporation or by a  
 368 subsidiary of the corporation or any other entity in which the  
 369 corporation has a controlling interest, if:

370 (A) Whether or not the transaction is brought before the board of  
371 directors of the corporation for action, the director knows at the time of  
372 commitment that he or a related person is a party to the transaction or  
373 has a beneficial financial interest in or so closely linked to the  
374 transaction and of such financial significance to the director or a  
375 related person that the interest would reasonably be expected to exert  
376 an influence on the director's judgment if he were called upon to vote  
377 on the transaction; or

378 (B) The transaction is brought, or is of such character and  
379 significance to the corporation that it would in the normal course be  
380 brought, before the board of directors of the corporation for action, and  
381 the director knows at the time of commitment that any of the following  
382 persons is either a party to the transaction or has a beneficial financial  
383 interest in or so closely linked to the transaction and of such financial  
384 significance to the person that the interest would reasonably be  
385 expected to exert an influence on the director's judgment if he were  
386 called upon to vote on the transaction: (i) An entity, other than the  
387 corporation, of which the director is a director, general partner, agent  
388 or employee; (ii) a person that controls one or more of the entities  
389 specified in subparagraph (B)(i) of this subdivision or an entity that is  
390 controlled by, or is under common control with, one or more of the  
391 entities specified in subparagraph (B)(i) of this subdivision; or (iii) an  
392 individual who is a general partner, principal or employer of the  
393 director.

394 (2) "Director's conflicting interest transaction" with respect to a  
395 corporation means a transaction effected or proposed to be effected by  
396 the corporation or by a subsidiary of the corporation or any other  
397 entity in which the corporation has a controlling interest, respecting  
398 which a director of the corporation has a conflicting interest.

399 (3) "Related person" of a director means (A) the spouse of the  
400 director, or a parent or sibling thereof, or a child, grandchild, sibling or  
401 parent of the director, or the spouse of any thereof, or an individual

402 having the same home as the director, or a trust or estate of which an  
403 individual specified in this subparagraph is a substantial beneficiary,  
404 or (B) a trust, estate, incompetent, conservatee or minor of which the  
405 director is a fiduciary.

406 (4) "Required disclosure" means disclosure by the director who has  
407 a conflicting interest of (A) the existence and nature of his conflicting  
408 interest, and (B) all facts known to him respecting the subject matter of  
409 the transaction that an ordinarily prudent person would reasonably  
410 believe to be material to a judgment about whether or not to proceed  
411 with the transaction.

412 (5) "Time of commitment" respecting a transaction means the time  
413 when the transaction is consummated or, if made pursuant to contract,  
414 the time when the corporation, or its subsidiary or the entity in which  
415 it has a controlling interest, becomes contractually obligated so that its  
416 unilateral withdrawal from the transaction would entail significant  
417 loss, liability or other damage.]

418 (1) "Director's conflicting interest transaction" means a transaction  
419 effected or proposed to be effected by the corporation, or by an entity  
420 controlled by the corporation, (A) to which, at the relevant time, the  
421 director is a party, (B) respecting which, at the relevant time, the  
422 director had knowledge and a material financial interest known to the  
423 director, or (C) respecting which, at the relevant time, the director  
424 knew that a related person was a party or had a material financial  
425 interest.

426 (2) "Control", including the term "controlled by", means (A) having  
427 the power, directly or indirectly, to elect or remove a majority of the  
428 members of the board of directors or other governing body of an  
429 entity, whether through the ownership of voting shares or interests, by  
430 contract, or otherwise, or (B) being subject to a majority of the risk of  
431 loss from the entity's activities or entitled to receive a majority of the  
432 entity's residual returns.

433       (3) "Relevant time" means (A) the time at which directors' action  
434 respecting the transaction is taken in compliance with section 33-783,  
435 as amended by this act, or (B) if the transaction is not brought before  
436 the board of directors of the corporation, or its committee, for action  
437 under section 33-783, as amended by this act, at the time the  
438 corporation, or an entity controlled by the corporation, becomes legally  
439 obligated to consummate the transaction.

440       (4) "Material financial interest" means a financial interest in a  
441 transaction that would reasonably be expected to impair the objectivity  
442 of the director when participating in action on the authorization of the  
443 transaction.

444       (5) "Related person" means: (A) The director's spouse; (B) a child,  
445 stepchild, grandchild, parent, step parent, grandparent, sibling, aunt,  
446 uncle, niece or nephew, or spouse of any thereof, of the director or of  
447 the director's spouse; (C) an individual living in the same home as the  
448 director; (D) an entity, other than the corporation or an entity  
449 controlled by the corporation, controlled by the director or any person  
450 specified in subparagraphs (A) to (C), inclusive, of this subdivision; (E)  
451 a domestic or foreign (i) business or nonprofit corporation, other than  
452 the corporation or an entity controlled by the corporation, of which the  
453 director is a director, (ii) unincorporated entity of which the director is  
454 a general partner or a member of the governing body, or (iii)  
455 individual, trust or estate for whom or of which the director is a  
456 trustee, guardian, personal representative or like fiduciary; or (F) a  
457 person that is, or an entity that is controlled by, an employer of the  
458 director.

459       (6) "Fair to the corporation" means, for purposes of subdivision (3)  
460 of subsection (b) of section 33-782, as amended by this act, that the  
461 transaction as a whole was beneficial to the corporation, taking into  
462 appropriate account whether it was (A) fair in terms of the director's  
463 dealings with the corporation, and (B) comparable to what might have  
464 been obtainable in an arm's length transaction, given the consideration



465 paid or received by the corporation.

466 (7) "Required disclosure" means disclosure of (A) the existence and  
 467 nature of the director's conflicting interest, and (B) all facts known to  
 468 the director respecting the subject matter of the transaction that a  
 469 director free of such conflicting interest would reasonably believe to be  
 470 material in deciding whether to proceed with the transaction.

471 Sec. 10. Section 33-782 of the general statutes is repealed and the  
 472 following is substituted in lieu thereof (*Effective October 1, 2006*):

473 (a) A transaction effected or proposed to be effected by [a  
 474 corporation, or by a subsidiary of the corporation or any other entity in  
 475 which the corporation has a controlling interest, that is not a director's  
 476 conflicting interest transaction may not be enjoined, set aside or give  
 477 rise to an award of damages or other sanctions, in a proceeding by a  
 478 shareholder or by or in the right of the corporation, because a director  
 479 of the corporation, or any person with whom or which he has a  
 480 personal, economic or other association, has an interest in the  
 481 transaction] the corporation, or by an entity controlled by the  
 482 corporation, may not be the subject of equitable relief, or give rise to an  
 483 award of damages or other sanctions against a director of the  
 484 corporation, in a proceeding by a shareholder or by or in the right of  
 485 the corporation, on the ground that the director has an interest  
 486 respecting the transaction, if it is not a director's conflicting interest  
 487 transaction.

488 (b) A director's conflicting interest transaction may not be [enjoined,  
 489 set aside] the subject of equitable relief, or give rise to an award of  
 490 damages or other sanctions against a director of the corporation, in a  
 491 proceeding by a shareholder or by or in the right of the corporation,  
 492 [because the director, or any person with whom or which he has a  
 493 personal, economic or other association,] on the ground that the  
 494 director has an interest [in] respecting the transaction, if: (1) Directors'  
 495 action respecting the transaction was [at any time] taken in compliance  
 496 with section 33-783, as amended by this act, at any time; (2)

497 shareholders' action respecting the transaction was [at any time] taken  
 498 in compliance with section 33-784, as amended by this act, at any time;  
 499 or (3) the transaction, judged according to the circumstances at the  
 500 relevant time, [of commitment,] is established to have been fair to the  
 501 corporation.

502 Sec. 11. Section 33-783 of the general statutes is repealed and the  
 503 following is substituted in lieu thereof (*Effective October 1, 2006*):

504 (a) Directors' action respecting a director's conflicting interest  
 505 transaction is effective for purposes of subdivision (1) of subsection (b)  
 506 of section 33-782, as amended by this act, if the transaction [received]  
 507 has been authorized by the affirmative vote of a majority, but no fewer  
 508 than two, of [those qualified directors on the board of directors or on a  
 509 duly empowered committee of the board] the qualified directors who  
 510 voted on the transaction, after [either required disclosure to them, to  
 511 the extent the information was not known by them, or compliance with  
 512 subsection (b) of this section; provided that action by a committee is so  
 513 effective only if (1) all its members are qualified directors, and (2) its  
 514 members are either all the qualified directors on the board or are]  
 515 required disclosure by the conflicted director of information not  
 516 already known by such qualified directors, or after modified disclosure  
 517 in compliance with subsection (b) of this section, provided that where  
 518 the action has been taken by a committee, all members of the  
 519 committee were qualified directors, and either (1) the committee was  
 520 composed of all the qualified directors on the board of directors, or (2)  
 521 the members of the committee were appointed by the affirmative vote  
 522 of a majority of the qualified directors on the board.

523 [(b) If a director has a conflicting interest respecting a transaction,  
 524 but neither he nor a related person of the director specified in  
 525 subparagraph (A) of subdivision (3) of section 33-781 is a party to the  
 526 transaction, and if the director has a duty under law or professional  
 527 canon, or a duty of confidentiality to another person, respecting  
 528 information relating to the transaction such that the director may not

529 make the disclosure described in subparagraph (B) of subdivision (4)  
530 of section 33-781, then disclosure is sufficient for purposes of  
531 subsection (a) of this section if the director (1) discloses to the directors  
532 voting on the transaction the existence and nature of his conflicting  
533 interest and informs them of the character and limitations imposed by  
534 that duty before their vote on the transaction, and (2) plays no part,  
535 directly or indirectly, in their deliberations or vote.]

536 (b) Notwithstanding subsection (a) of this section, when a  
537 transaction is a director's conflicting interest transaction only because a  
538 related person described in subparagraph (E) or (F) of subdivision (5)  
539 of section 33-781, as amended by this act, is a party to or has a material  
540 financial interest in the transaction, the conflicted director is not  
541 obligated to make required disclosure to the extent that the director  
542 reasonably believes that doing so would violate a duty imposed under  
543 law, a legally enforceable obligation of confidentiality or a professional  
544 ethics rule, provided that the conflicted director discloses to the  
545 qualified directors voting on the transaction: (1) All information  
546 required to be disclosed that is not so violative, (2) the existence and  
547 nature of the director's conflicting interest, and (3) the nature of the  
548 conflicted director's duty not to disclose the confidential information.

549 (c) A majority, but no fewer than two, of all the qualified directors  
550 on the board of directors, or on the committee, constitutes a quorum  
551 for purposes of action that complies with this section. Directors' action  
552 that otherwise complies with this section is not affected by the  
553 presence or vote of a director who is not a qualified director.

554 [(d) For purposes of this section, "qualified director" means, with  
555 respect to a director's conflicting interest transaction, any director who  
556 does not have either (1) a conflicting interest respecting the transaction,  
557 or (2) a familial, financial, professional or employment relationship  
558 with a second director who does have a conflicting interest respecting  
559 the transaction, which relationship would, in the circumstances,  
560 reasonably be expected to exert an influence on the first director's

561 judgment when voting on the transaction.]

562 (d) Where directors' action under this section does not satisfy a  
 563 quorum or voting requirement applicable to the authorization of the  
 564 transaction by reason of the certificate of incorporation, the bylaws or a  
 565 provision of law, independent action to satisfy those authorization  
 566 requirements must be taken by the board of directors or a committee,  
 567 in which action directors who are not qualified directors may  
 568 participate.

569 Sec. 12. Section 33-784 of the general statutes is repealed and the  
 570 following is substituted in lieu thereof (*Effective October 1, 2006*):

571 (a) Shareholders' action respecting a director's conflicting interest  
 572 transaction is effective for purposes of subdivision (2) of subsection (b)  
 573 of section 33-782, as amended by this act, if a majority of the votes  
 574 [entitled to be] cast by the holders of all qualified shares [were cast] are  
 575 in favor of the transaction after (1) notice to shareholders describing  
 576 the [director's conflicting interest] action to be taken respecting the  
 577 transaction, (2) provision to the corporation of the information referred  
 578 to in subsection [(d)] (b) of this section, and (3) [required disclosure]  
 579 communication to the shareholders [who voted] entitled to vote on the  
 580 transaction of the information that is the subject of required disclosure,  
 581 to the extent the information [was] is not known by them.

582 [(b) For purposes of this section, "qualified shares" means any shares  
 583 entitled to vote with respect to the director's conflicting interest  
 584 transaction except shares that, to the knowledge, before the vote, of the  
 585 secretary or other officer or agent of the corporation authorized to  
 586 tabulate votes, are beneficially owned, or the voting of which is  
 587 controlled, by a director who has a conflicting interest respecting the  
 588 transaction or by a related person of the director, or both.

589 (c) A majority of the votes entitled to be cast by the holders of all  
 590 qualified shares constitutes a quorum for purposes of action that  
 591 complies with this section. Subject to the provisions of subsections (d)

592 and (e) of this section, shareholders' action that otherwise complies  
593 with this section is not affected by the presence of holders, or the  
594 voting, of shares that are not qualified shares.]

595 [(d)] (b) [For purposes of compliance with subsection (a) of this  
596 section, a] A director who has a conflicting interest respecting the  
597 transaction shall, before the shareholders' vote, inform the secretary or  
598 other officer or agent of the corporation authorized to tabulate votes, in  
599 writing, of the number [, and the identity of persons holding or  
600 controlling the vote, of all] of shares that the director knows are  
601 [beneficially owned, or the voting of which is controlled, by the  
602 director or by a related person of the director, or both] not qualified  
603 shares under subsection (c) of this section, and the identity of the  
604 holders of those shares.

605 (c) For purposes of this section: (1) "Holder" means, and "held by"  
606 refers to shares held by, both a record shareholder, as defined in  
607 subdivision (7) of section 33-855, and a beneficial shareholder, as  
608 defined in subdivision (2) of section 33-855; and (2) "qualified shares"  
609 means all shares entitled to be voted with respect to the transaction  
610 except for shares that the secretary or other officer or agent of the  
611 corporation authorized to tabulate votes either knows, or under  
612 subsection (b) of this section is notified, are held by (A) a director who  
613 has a conflicting interest respecting the transaction, or (B) a related  
614 person of the director, excluding a person described in subparagraph  
615 (F) of subdivision (5) of section 33-781, as amended by this act.

616 (d) A majority of the votes entitled to be cast by the holders of all  
617 qualified shares constitutes a quorum for purposes of compliance with  
618 this section. Subject to the provisions of subsection (e) of this section,  
619 shareholders' action that otherwise complies with this section is not  
620 affected by the presence of holders, or by the voting, of shares that are  
621 not qualified shares.

622 (e) If a shareholders' vote does not comply with subsection (a) of  
623 this section solely because of a director's failure [of a director] to

624 comply with subsection [(d)] (b) of this section, and if the director  
 625 establishes that [his] the failure [did not determine and] was not  
 626 intended [by him] to influence and did not in fact determine the  
 627 outcome of the vote, the court may [, with or without further  
 628 proceedings respecting subdivision (3) of subsection (b) of section 33-  
 629 782,] take such action respecting the transaction and the director, and  
 630 may give such effect, if any, to the shareholders' vote, as [it] the court  
 631 considers appropriate in the circumstances.

632 (f) Where shareholders' action under this section does not satisfy a  
 633 quorum or voting requirement applicable to the authorization of the  
 634 transaction by reason of the certificate of incorporation, the bylaws or a  
 635 provision of law, independent action to satisfy those authorization  
 636 requirements must be taken by the shareholders, in which action  
 637 shares that are not qualified shares may participate.

638 Sec. 13. Subsection (d) of section 33-897 of the general statutes is  
 639 repealed and the following is substituted in lieu thereof (*Effective*  
 640 *October 1, 2006*):

641 (d) Within ten days of the commencement of a proceeding under  
 642 subdivision (1) of subsection (a) [or subdivision (2) of subsection (b)] of  
 643 section 33-896 to dissolve a corporation that [has no shares listed on a  
 644 national securities exchange or regularly traded in a market  
 645 maintained by one or more members of a national securities exchange]  
 646 is not a public corporation, the corporation must send to all  
 647 shareholders, other than the petitioner, a notice stating that the  
 648 shareholders are entitled to avoid the dissolution of the corporation by  
 649 electing to purchase the petitioner's shares under section 33-900, as  
 650 amended by this act, and accompanied by a copy of said section.

651 Sec. 14. Subsection (a) of section 33-900 of the general statutes is  
 652 repealed and the following is substituted in lieu thereof (*Effective*  
 653 *October 1, 2006*):

654 (a) In a proceeding [by a shareholder] under subdivision (1) of

655 subsection (a) [or subdivision (2) of subsection (b)] of section 33-896 to  
 656 dissolve a corporation that [has no shares listed on a national securities  
 657 exchange or regularly traded in a market maintained by one or more  
 658 members of a national or affiliated securities association] is not a  
 659 public corporation, the corporation may elect or, if it fails to elect, one  
 660 or more shareholders may elect to purchase all shares owned by the  
 661 petitioning shareholder at the fair value of the shares. An election  
 662 pursuant to this section shall be irrevocable unless the court  
 663 determines that it is equitable to set aside or modify the election.

664 Sec. 15. (NEW) (*Effective October 1, 2006*) (a) A director's taking  
 665 advantage, directly or indirectly, of a business opportunity may not be  
 666 the subject of equitable relief, or give rise to an award of damages or  
 667 other sanctions against the director, in a proceeding by or in the right  
 668 of the corporation on the ground that such opportunity should have  
 669 first been offered to the corporation, if before becoming legally  
 670 obligated respecting the opportunity the director brings it to the  
 671 attention of the corporation and: (1) Action by qualified directors'  
 672 disclaiming the corporation's interest in the opportunity is taken in  
 673 compliance with the procedures set forth in section 33-783 of the  
 674 general statutes, as amended by this act, as if the decision being made  
 675 concerned a director's conflicting interest transaction; or (2)  
 676 shareholders' action disclaiming the corporation's interest in the  
 677 opportunity is taken in compliance with the procedures set forth in  
 678 section 33-784 of the general statutes, as amended by this act, as if the  
 679 decision being made concerned a director's conflicting interest  
 680 transaction; except that, rather than making required disclosure, as  
 681 defined in section 33-781 of the general statutes, as amended by this  
 682 act, in each case the director shall have made prior disclosure to those  
 683 acting on behalf of the corporation of all material facts concerning the  
 684 business opportunity that are then known to the director.

685 (b) In any proceeding seeking equitable relief or other remedies  
 686 based upon an alleged improper taking advantage of a business  
 687 opportunity by a director, the fact that the director did not employ the

688 procedure described in subsection (a) of this section before taking  
689 advantage of the opportunity shall not create an inference that the  
690 opportunity should have been first presented to the corporation or  
691 alter the burden of proof otherwise applicable to establish that the  
692 director breached a duty to the corporation in the circumstances.

693 Sec. 16. Section 33-1002 of the general statutes is repealed and the  
694 following is substituted in lieu thereof (*Effective October 1, 2006*):

695 As used in sections 33-1000 to 33-1290, inclusive, and sections 17  
696 and 26 of this act:

697 (1) "Address" means location as described by the full street number,  
698 if any, street, city or town, state or country and not a mailing address  
699 such as a post office box.

700 (2) "Board" or "board of directors" means the group of persons  
701 vested with management of the affairs of the corporation irrespective  
702 of the name by which such group is designated.

703 (3) "Business corporation" means a corporation with capital stock or  
704 shares, incorporated under the laws of this state, whether general law  
705 or special act and whether before or after January 1, 1997.

706 (4) "Bylaws" means the code or codes of rules adopted for the  
707 regulation or management of the affairs of the corporation irrespective  
708 of the name or names by which such rules are designated.

709 (5) "Certificate of incorporation" means the original certificate of  
710 incorporation or restated certificate of incorporation, all amendments  
711 thereto, and all certificates of merger or consolidation. In the case of a  
712 specially chartered corporation, the "certificate of incorporation" means  
713 the special charter of the corporation, including any portions of the  
714 charters of its predecessor companies which have continuing effect,  
715 and any amendments to the charter made by special act or pursuant to  
716 general law. In the case of a corporation formed before January 1, 1961,  
717 or of a specially chartered corporation, the "certificate of incorporation"



718 includes those portions of any other corporate instruments or  
719 resolutions of current application in which are set out provisions of a  
720 sort which either (A) are required by sections 33-1000 to 33-1290,  
721 inclusive, to be embodied in the certificate of incorporation, or (B) are  
722 expressly permitted by said sections to be operative only if included in  
723 the certificate of incorporation. It also includes what were, prior to  
724 January 1, 1961, designated at law as agreements of association, articles  
725 of incorporation, charters and other such terms.

726 (6) "Class" means all members that under the certificate of  
727 incorporation or sections 33-1000 to 33-1290, inclusive, are entitled to  
728 vote and be counted together collectively on a matter at a meeting of  
729 members. All members entitled by the certificate of incorporation or  
730 said sections to vote generally on the matter are for that purpose a  
731 single class.

732 (7) "Conspicuous" means so written that a reasonable person against  
733 whom the writing is to operate should have noticed it. For example,  
734 printing in italics or boldface or contrasting color, or typing in capitals  
735 or underlined, is conspicuous.

736 (8) "Corporation" or "domestic corporation" means a corporation  
737 without capital stock or shares, which is not a foreign corporation,  
738 incorporated under the laws of this state, whether general law or  
739 special act and whether before or after January 1, 1997, but shall not  
740 include towns, cities, boroughs or any municipal corporation or  
741 department thereof.

742 (9) "Deliver" or "delivery" means any method of delivery used in  
743 conventional commercial practice including delivery by hand, mail,  
744 commercial delivery and electronic transmission.

745 (10) "Distribution" means a direct or indirect transfer of money or  
746 other property, or incurrence of indebtedness by a corporation to or for  
747 the benefit of its members in respect of any of its membership interests,  
748 or to or for the benefit of its officers or directors, provided the payment

749 of reasonable compensation for services rendered, the reimbursement  
750 of reasonable expenses, the granting of benefits to members in  
751 conformity with the corporation's nonprofit purposes and the making  
752 of distributions upon dissolution or final liquidation as provided by  
753 sections 33-1000 to 33-1290, inclusive, shall not be deemed a  
754 distribution.

755 (11) "Document" includes anything delivered to the office of the  
756 Secretary of the State for filing under sections 33-1000 to 33-1290,  
757 inclusive.

758 (12) "Effective date of notice" is defined in section 33-1003.

759 (13) "Electronic transmission" or "electronically transmitted" means  
760 any process of communication not directly involving the physical  
761 transfer of paper that is suitable for the retention, retrieval and  
762 reproduction of information by the recipient.

763 (14) "Entity" includes a corporation and foreign corporation;  
764 business corporation and foreign business corporation; profit and  
765 nonprofit unincorporated association; business trust, estate,  
766 partnership, limited liability company, trust and two or more persons  
767 having a joint or common economic interest; and state, United States,  
768 or foreign government.

769 (15) "Foreign corporation" means any nonprofit corporation with or  
770 without capital stock which is not organized under the laws of this  
771 state.

772 (16) "Governmental subdivision" includes authority, county, district  
773 and municipality.

774 (17) "Includes" denotes a partial definition.

775 (18) "Individual" includes the estate of an incompetent or deceased  
776 individual.

777 (19) "Means" denotes an exhaustive definition.

778 (20) "Member" means a person having membership rights in a  
779 corporation in accordance with the provisions of its certificate of  
780 incorporation or bylaws.

781 (21) A corporation is "nonprofit" if no distribution may be made to  
782 its members, directors or officers.

783 (22) "Notice" is defined in section 33-1003.

784 (23) "Person" includes individual and entity.

785 (24) "Principal office" of a domestic corporation means the address  
786 of the principal office of such corporation in this state, if any, as the  
787 same appears in the last annual report, if any, filed by such corporation  
788 with the Secretary of the State. If no principal office so appears, the  
789 corporation's "principal office" means the address in this state of the  
790 corporation's registered agent for service as last shown on the records  
791 of the Secretary of the State. In the case of a domestic corporation  
792 which has not filed such an annual report or appointment of registered  
793 agent for service, the "principal office" means the address of the  
794 principal place of affairs of such corporation in this state, if any, and if  
795 such corporation has no place of affairs in this state, its "principal  
796 office" shall be the office of the Secretary of the State.

797 (25) "Proceeding" includes civil suit and criminal, administrative  
798 and investigatory action.

799 (26) "Qualified director" is defined in section 17 of this act.

800 [(26)] (27) "Record date" means the date established under sections  
801 33-1055 to 33-1077, inclusive, on which a corporation determines the  
802 identity of its members and their interests for purposes of sections 33-  
803 1000 to 33-1290, inclusive. The determinations shall be made as of the  
804 close of business on the record date unless another time for doing so is  
805 specified when the record date is fixed.

806        [(27)] (28) "Secretary" means the corporate officer to whom under  
807        the bylaws or by the board of directors is delegated responsibility  
808        under subsection (c) of section 33-1109 for custody of the minutes of  
809        the meetings of the board of directors and of the members and for  
810        authenticating records of the corporation.

811        [(28)] (29) "Secretary of the State" means the Secretary of the State of  
812        Connecticut.

813        [(29)] (30) "Sign" or "signature" includes any manual, facsimile,  
814        conformed or electronic signature.

815        [(30)] (31) "State", when referring to a part of the United States,  
816        includes a state and commonwealth, and their agencies and  
817        governmental subdivisions, and a territory and insular possession, and  
818        their agencies and governmental subdivisions, of the United States.

819        [(31)] (32) "United States" includes any district, authority, bureau,  
820        commission, department and other agency of the United States.

821        Sec. 17. (NEW) (*Effective October 1, 2006*) (a) For purposes of sections  
822        33-1000 to 33-1290, inclusive, of the general statutes and section 26 of  
823        this act, a qualified director is a director who, at the time action is to be  
824        taken under:

825        (1) Section 33-1119 or 33-1121 of the general statutes, as amended by  
826        this act, (A) is not a party to the proceeding, (B) is not a director who  
827        sought approval for a director's conflicting interest transaction under  
828        section 33-1129 of the general statutes, as amended by this act, or a  
829        disclaimer of the corporation's interest in a business opportunity under  
830        section 26 of this act, which approval or disclaimer is challenged in the  
831        proceeding, and (C) does not have a material relationship with a  
832        director described in either subparagraph (A) or (B) of this  
833        subdivision;

834        (2) Section 33-1129 of the general statutes, as amended by this act, is  
835        not a director (A) as to whom the transaction is a director's conflicting

836 interest transaction, or (B) who has a material relationship with  
837 another director as to whom the transaction is a director's conflicting  
838 interest transaction; or

839 (3) Section 26 of this act, would be a qualified director under  
840 subdivision (2) of this subsection if the business opportunity were a  
841 director's conflicting interest transaction.

842 (b) For purposes of this section:

843 (1) "Material relationship" means a familial, financial, professional,  
844 employment or other relationship that would reasonably be expected  
845 to impair the objectivity of the director's judgment when participating  
846 in the action to be taken; and

847 (2) "Material interest" means an actual or potential benefit or  
848 detriment, other than one which would devolve on the corporation or  
849 the members or directors generally, that would reasonably be expected  
850 to impair the objectivity of the director's judgment when participating  
851 in the action to be taken.

852 (c) The presence of one or more of the following circumstances shall  
853 not by itself prevent a director from being a qualified director:

854 (1) Nomination or election of the director to the current board by  
855 any director who is not a qualified director with respect to the matter,  
856 or by any person that has a material relationship with that director,  
857 acting alone or participating with others; or

858 (2) Service as a director of another corporation of which a director  
859 who is not a qualified director with respect to the matter, or any  
860 individual who has a material relationship with that director, is also a  
861 director.

862 Sec. 18. Section 33-1110 of the general statutes is repealed and the  
863 following is substituted in lieu thereof (*Effective October 1, 2006*):

864 Each officer has the authority and shall perform the [duties]  
865 functions set forth in the bylaws, or to the extent consistent with the  
866 bylaws, the [duties] functions prescribed by the board of directors or  
867 by direction of an officer authorized by the board of directors to  
868 prescribe the [duties] functions of other officers.

869 Sec. 19. Section 33-1116 of the general statutes is repealed and the  
870 following is substituted in lieu thereof (*Effective October 1, 2006*):

871 As used in sections 33-1116 to 33-1125, inclusive:

872 (1) "Corporation" includes any domestic or foreign predecessor  
873 entity of a corporation in a merger.

874 (2) "Director" or "officer" means an individual who is or was a  
875 director or officer, respectively, of a corporation or who, while a  
876 director or officer of the corporation, is or was serving at the  
877 corporation's request as a director, officer, partner, trustee, employee  
878 or agent of another domestic or foreign corporation, partnership, joint  
879 venture, trust, employee benefit plan or other entity. A director or  
880 officer is considered to be serving an employee benefit plan at the  
881 corporation's request if [his] the individual's duties to the corporation  
882 also impose duties on, or otherwise involve services by, [him] the  
883 individual to the plan or to participants in or beneficiaries of the plan.  
884 "Director" or "officer" includes, unless the context requires otherwise,  
885 the estate or personal representative of a director or officer.

886 [(3) "Disinterested director" means a director who at the time of a  
887 vote referred to in subsection (c) of section 33-1119 or a vote or  
888 selection referred to in subsection (b) or (c) of section 33-1121, is not  
889 (A) a party to the proceeding or (B) an individual having a familial,  
890 financial, professional or employment relationship with the director  
891 whose indemnification or advance for expenses is the subject of the  
892 decision being made, which relationship would, in the circumstances,  
893 reasonably be expected to exert an influence on the director's judgment  
894 when voting on the decision being made.]

895 [(4)] (3) "Expenses" include counsel fees.

896 [(5)] (4) "Liability" means the obligation to pay a judgment,  
897 settlement, penalty, fine, including an excise tax assessed with respect  
898 to an employee benefit plan, or reasonable expenses incurred with  
899 respect to a proceeding.

900 [(6)] (5) "Official capacity" means: (A) When used with respect to a  
901 director, the office of director in a corporation; and (B) when used with  
902 respect to an [individual other than a director] officer, as contemplated  
903 in section 33-1122, the office in a corporation held by the officer. [or the  
904 employment or agency relationship undertaken by the employee or  
905 agent on behalf of the corporation.] "Official capacity" does not include  
906 service for any other domestic or foreign corporation or any  
907 partnership, joint venture, trust, employee benefit plan or other entity.

908 [(7)] (6) "Party" means an individual who was, is or is threatened to  
909 be made a defendant or respondent in a proceeding.

910 [(8)] (7) "Proceeding" means any threatened, pending or completed  
911 action, suit or proceeding, whether civil, criminal, administrative,  
912 arbitratative or investigative and whether formal or informal.

913 Sec. 20. Section 33-1119 of the general statutes is repealed and the  
914 following is substituted in lieu thereof (*Effective October 1, 2006*):

915 (a) A corporation may, before final disposition of a proceeding,  
916 advance funds to pay for or reimburse the reasonable expenses  
917 incurred [by a director] in connection with the proceeding by an  
918 individual who is a party to [a] the proceeding because [he is a director  
919 if he] that individual is a member of the board of directors if the  
920 director delivers to the corporation:

921 (1) A written affirmation of [his] the director's good faith belief that  
922 [he has met] the relevant standard of conduct described in section 33-  
923 1117 [,] has been met by the director or that the proceeding involves  
924 conduct for which liability has been limited under a provision of the

925 certificate of incorporation as authorized by subdivision (4) of  
926 subsection (b) of section 33-1026, as amended by this act; and

927 (2) [his] A written undertaking to repay any funds advanced if [he]  
928 the director is not entitled to mandatory indemnification under section  
929 33-1118 and it is ultimately determined under section 33-1120 or 33-  
930 1121, as amended by this act, that [he] the director has not met the  
931 relevant standard of conduct described in section 33-1117.

932 (b) The undertaking required by subdivision (2) of subsection (a) of  
933 this section must be an unlimited general obligation of the director but  
934 need not be secured and may be accepted without reference to the  
935 financial ability of the director to make repayment.

936 (c) Authorizations under this section shall be made:

937 (1) By the board of directors: (A) If there are two or more  
938 [disinterested] qualified directors, by a majority vote of all the  
939 [disinterested] qualified directors, a majority of whom shall for such  
940 purpose constitute a quorum, or by a majority of the members of a  
941 committee of two or more [disinterested] qualified directors appointed  
942 by such a vote; or (B) if there are fewer than two [disinterested]  
943 qualified directors, by the vote necessary for action by the board in  
944 accordance with subsection (c) of section 33-1100, in which  
945 authorization directors who [do not qualify as disinterested] are not  
946 qualified directors may participate; or

947 (2) [by] By the members, but a member who is also a director who at  
948 the time [does not qualify as a disinterested] is not a qualified director  
949 may not vote on the authorization.

950 Sec. 21. Section 33-1121 of the general statutes is repealed and the  
951 following is substituted in lieu thereof (*Effective October 1, 2006*):

952 (a) A corporation may not indemnify a director under section 33-  
953 1117 unless authorized for a specific proceeding after a determination  
954 has been made that indemnification [of the director] is permissible



955 because [he] the director has met the relevant standard of conduct set  
956 forth in said section.

957 (b) The determination shall be made:

958 (1) If there are two or more [disinterested] qualified directors, by the  
959 board of directors by a majority vote of all the [disinterested] qualified  
960 directors, a majority of whom shall for such purpose constitute a  
961 quorum, or by a majority of the members of a committee of two or  
962 more [disinterested] qualified directors appointed by such a vote;

963 (2) By special legal counsel (A) selected in the manner prescribed in  
964 subdivision (1) of this subsection, or (B) if there are fewer than two  
965 [disinterested] qualified directors, selected by the board of directors, in  
966 which selection directors who [do not qualify as disinterested] are not  
967 qualified directors may participate; or

968 (3) By the members entitled to vote to elect directors, but any such  
969 member who is also a director who at the time [does not qualify as a  
970 disinterested] is not a qualified director may not vote on the  
971 determination.

972 (c) Authorization of indemnification shall be made in the same  
973 manner as the determination that indemnification is permissible,  
974 except that if there are fewer than two [disinterested] qualified  
975 directors, or if the determination is made by special legal counsel,  
976 authorization of indemnification shall be made by those entitled to  
977 select special legal counsel under subparagraph (B) of subdivision (2)  
978 of subsection (b) of this section. [to select special legal counsel.]

979 Sec. 22. Section 33-1127 of the general statutes is repealed and the  
980 following is substituted in lieu thereof (*Effective October 1, 2006*):

981 As used in sections 33-1127 to 33-1130, inclusive, as amended by this  
982 act:

983 [(1) "Conflicting interest" with respect to a corporation means the

984 interest a director of the corporation has respecting a transaction  
985 effected or proposed to be effected by the corporation, or by a  
986 subsidiary of the corporation or any other entity in which the  
987 corporation has a controlling interest, if:

988 (A) Whether or not the transaction is brought before the board of  
989 directors of the corporation for action, the director knows at the time of  
990 commitment that he or a related person is a party to the transaction or  
991 has a beneficial financial interest in or so closely linked to the  
992 transaction and of such financial significance to the director or a  
993 related person that the interest would reasonably be expected to exert  
994 an influence on the director's judgment if he were called upon to vote  
995 on the transaction; or

996 (B) The transaction is brought, or is of such character and  
997 significance to the corporation that it would in the normal course be  
998 brought, before the board of directors of the corporation for action, and  
999 the director knows at the time of commitment that any of the following  
1000 persons is either a party to the transaction or has a beneficial financial  
1001 interest in or so closely linked to the transaction and of such financial  
1002 significance to the person that the interest would reasonably be  
1003 expected to exert an influence on the director's judgment if he were  
1004 called upon to vote on the transaction: (i) An entity, other than the  
1005 corporation, of which the director is a director, general partner, agent  
1006 or employee; (ii) a person that controls one or more of the entities  
1007 specified in subparagraph (B)(i) of this subdivision or an entity that is  
1008 controlled by, or is under common control with, one or more of the  
1009 entities specified in subparagraph (B)(i) of this subdivision; or (iii) an  
1010 individual who is a general partner, principal or employer of the  
1011 director.

1012 (2) "Director's conflicting interest transaction" with respect to a  
1013 corporation means a transaction effected or proposed to be effected by  
1014 the corporation, or by a subsidiary of the corporation or any other  
1015 entity in which the corporation has a controlling interest, respecting

1016 which a director of the corporation has a conflicting interest.

1017 (3) "Related person" of a director means (A) the spouse of the  
1018 director, or a parent or sibling thereof, or a child, grandchild, sibling or  
1019 parent of the director, or the spouse of any thereof, or an individual  
1020 having the same home as the director, or a trust or estate of which an  
1021 individual specified in this subparagraph is a substantial beneficiary,  
1022 or (B) a trust, estate, incompetent, conservatee or minor of which the  
1023 director is a fiduciary.

1024 (4) "Required disclosure" means disclosure by the director who has  
1025 a conflicting interest of (A) the existence and nature of his conflicting  
1026 interest, and (B) all facts known to him respecting the subject matter of  
1027 the transaction that an ordinarily prudent person would reasonably  
1028 believe to be material to a judgment about whether or not to proceed  
1029 with the transaction.

1030 (5) "Time of commitment" respecting a transaction means the time  
1031 when the transaction is consummated or, if made pursuant to contract,  
1032 the time when the corporation, or its subsidiary or the entity in which  
1033 it has a controlling interest, becomes contractually obligated so that its  
1034 unilateral withdrawal from the transaction would entail significant  
1035 loss, liability or other damage.]

1036 (1) "Director's conflicting interest transaction" means a transaction  
1037 effected or proposed to be effected by the corporation, or by an entity  
1038 controlled by the corporation, (A) to which, at the relevant time, the  
1039 director is a party, (B) respecting which, at the relevant time, the  
1040 director had knowledge and a material financial interest known to the  
1041 director, or (C) respecting which, at the relevant time, the director  
1042 knew that a related person was a party or had a material financial  
1043 interest.

1044 (2) "Control", including the term "controlled by", means (A) having  
1045 the power, directly or indirectly, to elect or remove a majority of the  
1046 members of the board of directors or other governing body of an

1047 entity, whether through membership or the ownership of voting  
1048 shares or interests, by contract, or otherwise, or (B) being subject to a  
1049 majority of the risk of loss from the entity's activities or entitled to  
1050 receive a majority of the entity's residual returns.

1051 (3) "Relevant time" means (A) the time at which directors' action  
1052 respecting the transaction is taken in compliance with section 33-1129,  
1053 as amended by this act, or (B) if the transaction is not brought before  
1054 the board of directors of the corporation, or its committee, for action  
1055 under section 33-1129, as amended by this act, at the time the  
1056 corporation, or an entity controlled by the corporation, becomes legally  
1057 obligated to consummate the transaction.

1058 (4) "Material financial interest" means a financial interest in a  
1059 transaction that would reasonably be expected to impair the objectivity  
1060 of the director when participating in action on the authorization of the  
1061 transaction.

1062 (5) "Related person" means: (A) The director's spouse; (B) a child,  
1063 stepchild, grandchild, parent, step parent, grandparent, sibling, aunt,  
1064 uncle, niece or nephew, or spouse of any thereof, of the director or of  
1065 the director's spouse; (C) an individual living in the same home as the  
1066 director; (D) an entity, other than the corporation or an entity  
1067 controlled by the corporation, controlled by the director or any person  
1068 specified in subparagraphs (A) to (C), inclusive, of this subdivision; (E)  
1069 a domestic or foreign (i) business or nonprofit corporation, other than  
1070 the corporation or an entity controlled by the corporation, of which the  
1071 director is a director, (ii) unincorporated entity of which the director is  
1072 a general partner or a member of the governing body, or (iii)  
1073 individual, trust or estate for whom or of which the director is a  
1074 trustee, guardian, personal representative or like fiduciary; or (F) a  
1075 person that is, or an entity that is controlled by, an employer of the  
1076 director.

1077 (6) "Fair to the corporation" means, for purposes of subdivision (3)  
1078 of subsection (b) of section 33-1128, as amended by this act, that the

1079 transaction as a whole was beneficial to the corporation, taking into  
1080 appropriate account whether it was (A) fair in terms of the director's  
1081 dealings with the corporation, and (B) comparable to what might have  
1082 been obtainable in an arm's length transaction, given the consideration  
1083 paid or received by the corporation.

1084 (7) "Required disclosure" means disclosure of (A) the existence and  
1085 nature of the director's conflicting interest, and (B) all facts known to  
1086 the director respecting the subject matter of the transaction that a  
1087 director free of such conflicting interest would reasonably believe to be  
1088 material in deciding whether to proceed with the transaction.

1089 Sec. 23. Section 33-1128 of the general statutes is repealed and the  
1090 following is substituted in lieu thereof (*Effective October 1, 2006*):

1091 (a) A transaction effected or proposed to be effected by [a  
1092 corporation, or by a subsidiary of the corporation or any other entity in  
1093 which the corporation has a controlling interest, that is not a director's  
1094 conflicting interest transaction may not be enjoined, set aside or give  
1095 rise to an award of damages or other sanctions, in a proceeding by a  
1096 member or director or by or in the right of the corporation, because a  
1097 director of the corporation, or any person with whom or which he has  
1098 a personal, economic or other association, has an interest in the  
1099 transaction] the corporation, or by an entity controlled by the  
1100 corporation, may not be the subject of equitable relief, or give rise to an  
1101 award of damages or other sanctions against a director of the  
1102 corporation, in a proceeding by a member or director or by or in the  
1103 right of the corporation, on the ground that the director has an interest  
1104 respecting the transaction, if it is not a director's conflicting interest  
1105 transaction.

1106 (b) A director's conflicting interest transaction may not be [enjoined,  
1107 set aside] the subject of equitable relief, or give rise to an award of  
1108 damages or other sanctions against a director of the corporation, in a  
1109 proceeding by a member or director or by or in the right of the  
1110 corporation, [because the director, or any person with whom or which

1111 he has a personal, economic or other association,] on the ground that  
 1112 the director has an interest [in] respecting the transaction, if: (1)  
 1113 Directors' action respecting the transaction was [at any time] taken in  
 1114 compliance with section 33-1129, as amended by this act, at any time;  
 1115 (2) members' action respecting the transaction was [at any time] taken  
 1116 in compliance with section 33-1130, as amended by this act, at any  
 1117 time; or (3) the transaction, judged according to the circumstances at  
 1118 the relevant time, [of commitment,] is established to have been fair to  
 1119 the corporation.

1120 Sec. 24. Section 33-1129 of the general statutes is repealed and the  
 1121 following is substituted in lieu thereof (*Effective October 1, 2006*):

1122 (a) Directors' action respecting a director's conflicting interest  
 1123 transaction is effective for purposes of subdivision (1) of subsection (b)  
 1124 of section 33-1128, as amended by this act, if the transaction [received]  
 1125 has been authorized by the affirmative vote of a majority, but no fewer  
 1126 than two, of [those qualified directors on the board of directors or on a  
 1127 duly empowered committee of the board] the qualified directors who  
 1128 voted on the transaction, after [either required disclosure to them, to  
 1129 the extent the information was not known by them, or compliance with  
 1130 subsection (b) of this section; provided that action by a committee is so  
 1131 effective only if (1) all committee members are qualified directors, and  
 1132 (2) committee members are either all the qualified directors on the  
 1133 board or are] required disclosure by the conflicted director of  
 1134 information not already known by such qualified directors, or after  
 1135 modified disclosure in compliance with subsection (b) of this section,  
 1136 provided that where the action has been taken by a committee, all  
 1137 members of the committee were qualified directors, and either (1) the  
 1138 committee was composed of all the qualified directors on the board of  
 1139 directors, or (2) the members of the committee were appointed by the  
 1140 affirmative vote of a majority of the qualified directors on the board.

1141 [(b) If a director has a conflicting interest respecting a transaction,  
 1142 but neither he nor a related person of the director specified in

1143 subparagraph (A) of subdivision (3) of section 33-1127 is a party to the  
 1144 transaction, and if the director has a duty under law or professional  
 1145 canon, or a duty of confidentiality to another person, respecting  
 1146 information relating to the transaction such that the director may not  
 1147 make the disclosure described in subparagraph (B) of subdivision (4)  
 1148 of section 33-1127, then disclosure is sufficient for purposes of  
 1149 subsection (a) of this section if the director (1) discloses to the directors  
 1150 voting on the transaction the existence and nature of his conflicting  
 1151 interest and informs them of the character and limitations imposed by  
 1152 that duty before their vote on the transaction, and (2) plays no part,  
 1153 directly or indirectly, in their deliberations or vote.]

1154 (b) Notwithstanding subsection (a) of this section, when a  
 1155 transaction is a director's conflicting interest transaction only because a  
 1156 related person described in subparagraph (E) or (F) of subdivision (5)  
 1157 of section 33-1127, as amended by this act, is a party to or has a  
 1158 material financial interest in the transaction, the conflicted director is  
 1159 not obligated to make required disclosure to the extent that the  
 1160 director reasonably believes that doing so would violate a duty  
 1161 imposed under law, a legally enforceable obligation of confidentiality  
 1162 or a professional ethics rule, provided that the conflicted director  
 1163 discloses to the qualified directors voting on the transaction: (1) All  
 1164 information required to be disclosed that is not so violative, (2) the  
 1165 existence and nature of the director's conflicting interest, and (3) the  
 1166 nature of the conflicted director's duty not to disclose the confidential  
 1167 information.

1168 (c) A majority, but no fewer than two, of all the qualified directors  
 1169 on the board of directors, or on the committee, constitutes a quorum  
 1170 for purposes of action that complies with this section. Directors' action  
 1171 that otherwise complies with this section is not affected by the  
 1172 presence or vote of a director who is not a qualified director.

1173 [(d) For purposes of this section, "qualified director" means, with  
 1174 respect to a director's conflicting interest transaction, any director who

1175 does not have either (1) a conflicting interest respecting the transaction,  
1176 or (2) a familial, financial, professional or employment relationship  
1177 with a second director who does have a conflicting interest respecting  
1178 the transaction, which relationship would, in the circumstances,  
1179 reasonably be expected to exert an influence on the first director's  
1180 judgment when voting on the transaction.]

1181 (d) Where directors' action under this section does not satisfy a  
1182 quorum or voting requirement applicable to the authorization of the  
1183 transaction by reason of the certificate of incorporation, the bylaws or a  
1184 provision of law, independent action to satisfy those authorization  
1185 requirements must be taken by the board of directors or a committee,  
1186 in which action directors who are not qualified directors may  
1187 participate.

1188 Sec. 25. Section 33-1130 of the general statutes is repealed and the  
1189 following is substituted in lieu thereof (*Effective October 1, 2006*):

1190 (a) Members' action respecting a director's conflicting interest  
1191 transaction is effective for purposes of subdivision (2) of subsection (b)  
1192 of section 33-1128, as amended by this act, if a majority of the votes  
1193 cast by the members entitled to vote [were cast] are in favor of the  
1194 transaction after (1) notice to members entitled to vote describing the  
1195 [director's conflicting interest] action to be taken respecting the  
1196 transaction, (2) provision to the corporation of the information referred  
1197 to in subsection [(d)] (b) of this section, and (3) [required disclosure]  
1198 communication to the members [who voted] entitled to vote on the  
1199 transaction of the information that is the subject of required disclosure,  
1200 to the extent the information [was] is not known by them.

1201 (b) A director who has a conflicting interest respecting the  
1202 transaction shall, before the members' vote, inform the secretary or  
1203 other officer or agent of the corporation authorized to tabulate votes, in  
1204 writing, of any members entitled to vote who, to the knowledge of  
1205 such director, are (1) a director who has a conflicting interest  
1206 respecting the transaction, or (2) a related person of any such director,



1207 excluding a person described in subparagraph (F) of subdivision (5) of  
 1208 section 33-1127, as amended by this act.

1209 [(b)] (c) For purposes of this section, the members entitled to vote  
 1210 with respect to a director's conflicting interest transaction [means] are  
 1211 any members entitled to vote, except members entitled to vote who [,  
 1212 to the knowledge, before the vote, of] the secretary or other officer or  
 1213 agent of the corporation authorized to tabulate votes [, are (1) directors  
 1214 who have a conflicting interest respecting the transaction, or (2)  
 1215 controlled by directors who have] either knows, or under subsection  
 1216 (b) of this section is notified, are either (1) a director who has a  
 1217 conflicting interest respecting the transaction, or [by] (2) a related  
 1218 person of [any such director, or both] the director, excluding a person  
 1219 described in subparagraph (F) of subdivision (5) of section 33-1127, as  
 1220 amended by this act.

1221 [(c) The members entitled to vote present in person, or by proxy if  
 1222 voting by proxy is permitted, or voting by ballot if voting by ballot is  
 1223 permitted, constitute a quorum for purposes of action that complies  
 1224 with this section, unless the certificate of incorporation or bylaws  
 1225 require a greater number. Subject to the provisions of subsections (d)  
 1226 and (e) of this section, members' action that otherwise complies with  
 1227 this section is not affected by the presence of members, or the vote of  
 1228 members, that are not members entitled to vote.

1229 (d) For purposes of compliance with subsection (a) of this section, a  
 1230 director who has a conflicting interest respecting the transaction shall,  
 1231 before the members' vote, inform the secretary or other officer or agent  
 1232 of the corporation authorized to tabulate votes, of the number, and the  
 1233 identity of persons holding or controlling the vote, of all members that  
 1234 the director knows are controlled by the director or by a related person  
 1235 of the director, or both.]

1236 (d) A majority of the votes entitled to be cast by the members  
 1237 entitled to vote with respect to the transaction constitutes a quorum for  
 1238 purposes of compliance with this section. Subject to the provisions of

1239 subsection (e) of this section, members' action that otherwise complies  
 1240 with this section is not affected by the presence, or by the voting, of  
 1241 members that are not entitled to vote with respect to the transaction.

1242 (e) If a members' vote does not comply with subsection (a) of this  
 1243 section solely because of a director's failure [of a director] to comply  
 1244 with subsection [(d)] (b) of this section, and if the director establishes  
 1245 that [his] the failure [did not determine and] was not intended [by  
 1246 him] to influence and did not in fact determine the outcome of the  
 1247 vote, the court may [, with or without further proceedings respecting  
 1248 subdivision (3) of subsection (b) of section 33-1128,] take such action  
 1249 respecting the transaction and the director, and may give such effect, if  
 1250 any, to the members' vote, as [it] the court considers appropriate in the  
 1251 circumstances.

1252 (f) Where members' action under this section does not satisfy a  
 1253 quorum or voting requirement applicable to the authorization of the  
 1254 transaction by reason of the certificate of incorporation, the bylaws or a  
 1255 provision of law, independent action to satisfy those authorization  
 1256 requirements must be taken by the members, in which action members  
 1257 that are not entitled to vote on the transaction may participate.

1258 Sec. 26. (NEW) (*Effective October 1, 2006*) (a) A director's taking  
 1259 advantage, directly or indirectly, of a business opportunity may not be  
 1260 the subject of equitable relief, or give rise to an award of damages or  
 1261 other sanctions against the director, in a proceeding by or in the right  
 1262 of the corporation on the ground that such opportunity should have  
 1263 first been offered to the corporation, if before becoming legally  
 1264 obligated respecting the opportunity the director brings it to the  
 1265 attention of the corporation and: (1) Directors' action disclaiming the  
 1266 corporation's interest in the opportunity is taken in compliance with  
 1267 the procedures set forth in section 33-1129 of the general statutes, as  
 1268 amended by this act, as if the decision being made concerned a  
 1269 director's conflicting interest transaction; or (2) members' action  
 1270 disclaiming the corporation's interest in the opportunity is taken in

1271 compliance with the procedures set forth in section 33-1130 of the  
1272 general statutes, as amended by this act, as if the decision being made  
1273 concerned a director's conflicting interest transaction; except that,  
1274 rather than making required disclosure, as defined in section 33-1127  
1275 of the general statutes, as amended by this act, in each case the director  
1276 shall have made prior disclosure to those acting on behalf of the  
1277 corporation of all material facts concerning the business opportunity  
1278 that are then known to the director.

1279 (b) In any proceeding seeking equitable relief or other remedies  
1280 based upon an alleged improper taking advantage of a business  
1281 opportunity by a director, the fact that the director did not employ the  
1282 procedure described in subsection (a) of this section before taking  
1283 advantage of the opportunity shall not create an inference that the  
1284 opportunity should have been first presented to the corporation or  
1285 alter the burden of proof otherwise applicable to establish that the  
1286 director breached a duty to the corporation in the circumstances.

1287 Sec. 27. Subsection (b) of section 33-636 of the general statutes is  
1288 repealed and the following is substituted in lieu thereof (*Effective*  
1289 *October 1, 2006*):

1290 (b) The certificate of incorporation may set forth: (1) The names and  
1291 addresses of the individuals who are to serve as the initial directors; (2)  
1292 provisions not inconsistent with law regarding: (A) The purpose or  
1293 purposes for which the corporation is organized; (B) managing the  
1294 business and regulating the affairs of the corporation; (C) defining,  
1295 limiting and regulating the powers of the corporation, its board of  
1296 directors and shareholders; (D) a par value for authorized shares or  
1297 classes of shares; (E) the imposition of personal liability on  
1298 shareholders for the debts of the corporation to a specified extent and  
1299 upon specified conditions; (3) any provision that under sections 33-600  
1300 to 33-998, inclusive, is required or permitted to be set forth in the  
1301 bylaws; (4) a provision limiting the personal liability of a director to  
1302 the corporation or its shareholders for monetary damages for breach of

1303 duty as a director to an amount that is not less than the compensation  
1304 received by the director for serving the corporation during the year of  
1305 the violation if such breach did not (A) involve a knowing and  
1306 culpable violation of law by the director, (B) enable the director or an  
1307 associate, as defined in section 33-840, to receive an improper personal  
1308 economic gain, (C) show a lack of good faith and a conscious disregard  
1309 for the duty of the director to the corporation under circumstances in  
1310 which the director was aware that his conduct or omission created an  
1311 unjustifiable risk of serious injury to the corporation, (D) constitute a  
1312 sustained and unexcused pattern of inattention that amounted to an  
1313 abdication of the director's duty to the corporation, or (E) create  
1314 liability under section 33-757, provided no such provision shall limit or  
1315 preclude the liability of a director for any act or omission occurring  
1316 prior to the effective date of such provision; and (5) a provision  
1317 permitting or making obligatory indemnification of a director for  
1318 liability, as defined in [subdivision (5) of] section 33-770, as amended  
1319 by this act, to any person for any action taken, or any failure to take  
1320 any action, as a director, except liability that (A) involved a knowing  
1321 and culpable violation of law by the director, (B) enabled the director  
1322 or an associate, as defined in section 33-840, to receive an improper  
1323 personal gain, (C) showed a lack of good faith and a conscious  
1324 disregard for the duty of the director to the corporation under  
1325 circumstances in which the director was aware that his conduct or  
1326 omission created an unjustifiable risk of serious injury to the  
1327 corporation, (D) constituted a sustained and unexcused pattern of  
1328 inattention that amounted to an abdication of the director's duty to the  
1329 corporation or (E) created liability under section 33-757, provided no  
1330 such provision shall affect the indemnification of or advance of  
1331 expenses to a director for any liability stemming from acts or  
1332 omissions occurring prior to the effective date of such provision.

1333 Sec. 28. Subsection (b) of section 33-1026 of the general statutes is  
1334 repealed and the following is substituted in lieu thereof (*Effective*  
1335 *October 1, 2006*):

1336 (b) The certificate of incorporation may set forth: (1) The names and  
1337 addresses of the individuals who are to serve as the initial directors; (2)  
1338 provisions not inconsistent with law regarding: (A) Managing and  
1339 regulating the affairs of the corporation; or (B) defining, limiting and  
1340 regulating the powers of the corporation, its board of directors and  
1341 members or any class of members; (3) any provision that under  
1342 sections 33-1000 to 33-1290, inclusive, is required or permitted to be set  
1343 forth in the bylaws; (4) a provision limiting the personal liability of a  
1344 director to the corporation or its members for monetary damages for  
1345 breach of duty as a director to an amount that is not less than the  
1346 compensation received by the director for serving the corporation  
1347 during the year of the violation if such breach did not (A) involve a  
1348 knowing and culpable violation of law by the director, (B) enable the  
1349 director or an associate, as defined in section 33-840, to receive an  
1350 improper personal economic gain, (C) show a lack of good faith and a  
1351 conscious disregard for the duty of the director to the corporation  
1352 under circumstances in which the director was aware that his conduct  
1353 or omission created an unjustifiable risk of serious injury to the  
1354 corporation, or (D) constitute a sustained and unexcused pattern of  
1355 inattention that amounted to an abdication of the director's duty to the  
1356 corporation, provided no such provision shall limit or preclude the  
1357 liability of a director for any act or omission occurring prior to the  
1358 effective date of such provision; and (5) a provision permitting or  
1359 making obligatory indemnification of a director for liability, as defined  
1360 in [subdivision (5) of] section 33-1116, as amended by this act, to any  
1361 person for any action taken, or any failure to take any action, as a  
1362 director, except liability that (A) involved a knowing and culpable  
1363 violation of law by the director, (B) enabled the director or an  
1364 associate, as defined in section 33-840, to receive an improper personal  
1365 gain, (C) showed a lack of good faith and a conscious disregard for the  
1366 duty of the director to the corporation under circumstances in which  
1367 the director was aware that his conduct or omission created an  
1368 unjustifiable risk of serious injury to the corporation, or (D) constituted  
1369 a sustained and unexcused pattern of inattention that amounted to an

1370 abdication of the director's duty to the corporation, provided no such  
1371 provision shall affect the indemnification of or advance of expenses to  
1372 a director for any liability stemming from acts or omissions occurring  
1373 prior to the effective date of such provision.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	33-602
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>October 1, 2006</i>	33-717(d)
Sec. 4	<i>October 1, 2006</i>	33-724
Sec. 5	<i>October 1, 2006</i>	33-764
Sec. 6	<i>October 1, 2006</i>	33-770
Sec. 7	<i>October 1, 2006</i>	33-773
Sec. 8	<i>October 1, 2006</i>	33-775
Sec. 9	<i>October 1, 2006</i>	33-781
Sec. 10	<i>October 1, 2006</i>	33-782
Sec. 11	<i>October 1, 2006</i>	33-783
Sec. 12	<i>October 1, 2006</i>	33-784
Sec. 13	<i>October 1, 2006</i>	33-897(d)
Sec. 14	<i>October 1, 2006</i>	33-900(a)
Sec. 15	<i>October 1, 2006</i>	New section
Sec. 16	<i>October 1, 2006</i>	33-1002
Sec. 17	<i>October 1, 2006</i>	New section
Sec. 18	<i>October 1, 2006</i>	33-1110
Sec. 19	<i>October 1, 2006</i>	33-1116
Sec. 20	<i>October 1, 2006</i>	33-1119
Sec. 21	<i>October 1, 2006</i>	33-1121
Sec. 22	<i>October 1, 2006</i>	33-1127
Sec. 23	<i>October 1, 2006</i>	33-1128
Sec. 24	<i>October 1, 2006</i>	33-1129
Sec. 25	<i>October 1, 2006</i>	33-1130
Sec. 26	<i>October 1, 2006</i>	New section
Sec. 27	<i>October 1, 2006</i>	33-636(b)
Sec. 28	<i>October 1, 2006</i>	33-1026(b)

**Statement of Purpose:**

To amend the Connecticut Business Corporation Act to adopt recent changes to the Model Business Corporation Act concerning the duties

and responsibilities of corporate directors and officers and to make similar amendments to the Connecticut Revised Nonstock Corporation Act.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*